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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mitchell C. Calderwood

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10/12/2005

Gordon E. Gray III  
GRAY LAW FIRM  
Suite 233  
4401 N. Atlantic Avenue  
Long Beach, CA 90807

EXAMINER

HO, ALLEN C

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,325	<b>Applicant(s)</b> CALDERWOOD ET AL.	
	<b>Examiner</b> Allen C. Ho	<b>Art Unit</b> 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-12 and 16 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 13-15 and 19 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>17082005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities:

Although claim 1 recites "for alternatively and slidably engaging a posterior imaging bar and an anterior imaging bar", this recitation fails to bring a posterior imaging bar and an anterior imaging bar into the claim because it recites intended use. To properly incorporate the various structural elements into the claim, claim 1 should be amended as follows:

- (1) Line 4, "the" before "posterior imaging bar" should be replaced by --a--;
- (2) Line 6, "the" before "posterior sensor holder" should be replaced by --a--;
- (3) Line 8, "the" before "anterior imaging bar" should be replaced by --an--; and
- (4) Line 10, "the" before "anterior sensor holder" should be replaced by --an--.

Appropriate correction is required.

2. Claim 2 is objected to because of the following informalities:

For the same reason set forth above, claim 2 should be amended as follows:

- (1) Line 5, "the" before "posterior imaging bar" should be replaced by --a--;
- (2) Line 12, "the" before "posterior sensor holder" should be replaced by --a--;
- (3) Line 14, "the" before "anterior imaging bar" should be replaced by --an--; and
- (4) Line 16, "the" before "anterior sensor holder" should be replaced by --an--.

Appropriate correction is required.

3. Claim 3 is objected to because of the following informalities:

For the same reason set forth above, claim 3 should be amended as follows:

- (1) Line 5, "the" before "posterior imaging bar" should be replaced by --a--;
- (2) Line 7, "the" before "posterior sensor holder" should be replaced by --a--;
- (3) Line 9, "the" before "anterior imaging bar" should be replaced by --an--; and
- (4) Line 13, "the" before "anterior sensor holder" should be replaced by --an--.

Appropriate correction is required.

4. Claims 17 and 18 are objected to because of the following informalities:

Claim 17 recites the limitation "the anterior imaging bar" in line 11. There is insufficient antecedent basis for this limitation in the claim. The phrase "anterior imaging bar" should be replaced by --the two pressure slots--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanbar *et al.* (U. S. Patent No. 5,289,522).

With regard to claim 1, Kanbar *et al.* disclosed a dental radiography positioning system comprising: an aimer ring having a ring (16) and a bar slide (17) for alternatively and slidably

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engaging a posterior imaging bar (when a posterior sensor holder **11** is used) and an anterior imaging bar (when an anterior sensor holder **23** is used); the posterior imaging bar having a posterior aimer ring bar (**13**) and a posterior imaging platform (**15**) for mounting a posterior sensor holder (**11**); the posterior sensor holder having a tab (**12**) for mounting to the posterior imaging platform; the anterior imaging bar having an anterior aimer ring bar (**13**) and an anterior imaging platform (**15**) for mounting an anterior sensor holder (**23**); the anterior sensor holder having a tab (**24**) for mounting to the anterior imaging platform; and a horizontal bitewing sensor holder (**11**) having a mechanism for establishing a single use (single use x-ray film packet, column 4, lines 62 - 66).

With regard to claim 5, Kabar *et al.* disclosed the dental radiography positioning system of claim 1, further comprising a vertical bitewing sensor holder (**23**).

7. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka (U. S. Patent No. 5,450,465).

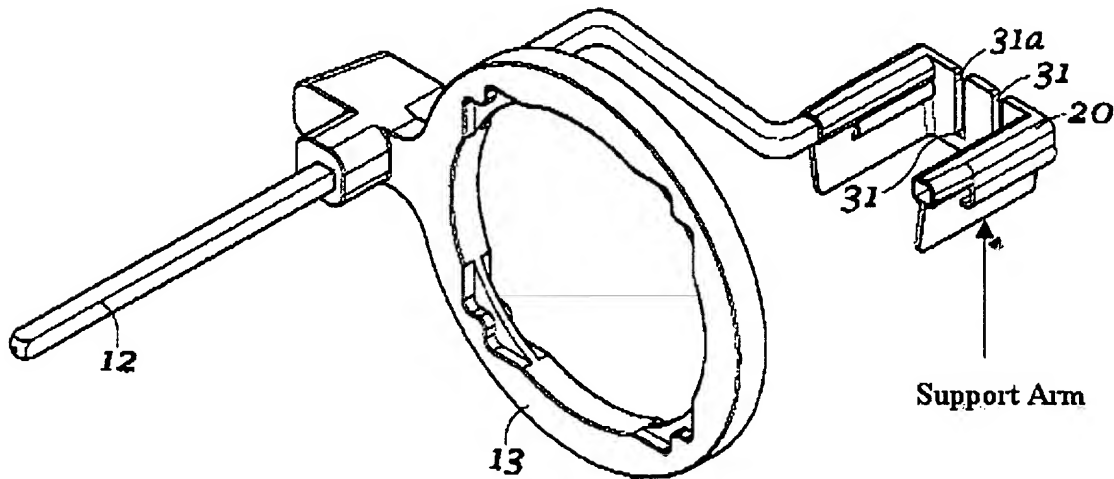
With regard to claim 13, Tanaka disclosed a dental radiography posterior sensor holder comprising a flexible sleeve (**21**) for holding a digital radiography sensor where the sleeve has a sleeve base (**20a**) and a sleeve back (**20b**); where the sleeve base has a tab (**24c**) for engaging a posterior imaging bar, and where the sleeve back has a gripping tab (**22**) for being held by a gripping tool. Note: Apparatus claims must be distinguishable from the prior art in terms of structure rather than function. MPEP § 2114.

8. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by McAuslan (U. S. Patent No. 4,592,084).

With regard to claim 14, McAuslan disclosed a dental radiography anterior sensor holder comprising a flexible sleeve (16) for holding a digital dental radiography sensor and two arms (20) extending from the sleeve, where each arm is slotted (38, 40) for engaging an anterior imaging bar. Note: Apparatus claims must be distinguishable from the prior art in terms of structure rather than function. MPEP § 2114.

With regard to claim 15, McAuslan disclosed the dental radiography anterior sensor holder of claim 14, where each arm extends from the sleeve at a pre-determined angle (90 degrees).

9. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Eppinger *et al.* (U. S. Patent No. 6,343,875 B1).



*Fig. 1*

With regard to claim 19, Eppinger *et al.* disclosed a dental radiography anterior imaging bar comprising an aimer ring bar (12) supporting an anterior imaging platform; where the anterior imaging platform has two pressure slots (31, 40) and an angled base (20, 20a, 20b); and

where the aimer ring bar has an S-curve to support an aimer ring; and where the imaging platform further comprises two support arms extending from below the pressure slots to provide support to the anterior sensor holder (Fig. 1).

*Allowable Subject Matter*

10. Claims 7-12 and 16 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

With regard to claim 2, although the prior art discloses a dental radiography positioning system comprising an aimer ring having a ring and a bar slide for alternatively and slidably engaging a posterior imaging bar and an anterior imaging bar, a posterior imaging bar having a posterior aimer ring bar and a posterior imaging platform, a posterior sensor holder having a tab for mounting to the posterior imaging platform, an anterior imaging bar having an anterior aimer ring bar and an anterior imaging platform, and an anterior sensor holder having a tab for mounting to the anterior imaging platform, it fails to teach or fairly suggest that the posterior imaging bar further comprises an imaging arm supporting the posterior imaging platform and an opposing posterior imaging platform, where the posterior and opposing posterior imaging platforms can each be used for taking upper and lower posterior dental radiographic images as claimed.

With regard to claim 3, although the prior art discloses a dental radiography positioning system comprising an aimer ring having a ring and a bar slide for alternatively and slidably engaging a posterior imaging bar and an anterior imaging bar, a posterior imaging bar having a posterior aimer ring bar and a posterior imaging platform, a posterior sensor holder having a tab

for mounting to the posterior imaging platform, an anterior imaging bar having an anterior aimer ring bar and an anterior imaging platform, and an anterior sensor holder having a tab for mounting to the anterior imaging platform, it fails to teach or fairly suggest that the anterior imaging platform has two slotted arms for holding the anterior sensor holder as claimed.

With regard to claims 7-12, although the prior art discloses a dental radiography posterior imaging bar comprising an aimer ring bar, an imaging bar, where the imaging bar has a first posterior imaging platform and a second posterior imaging platform, the first and second posterior imaging platform each having a sensor stop and a sensor holder slot for supporting a sensor holder, it fails to teach or fairly suggest that the aimer ring bar is perpendicularly elevated from the imaging bar by a pre-determined length as claimed.

With regard to claim 16, although the prior art discloses a dental radiography anterior sensor holder comprising a flexible sleeve for holding a digital dental radiography sensor and two arms extending from the sleeve, where each arm is slotted for engaging anterior imaging bar, it fails to teach or fairly suggest that each arm has an I-shaped cross-section as claimed.

With regard to claims 17 and 18, although the prior art discloses a dental radiography anterior imaging system comprising an aimer ring bar supporting an anterior imaging platform, where the anterior imaging platform has two pressure slots for holding an anterior sensor holder and an angled base for positioning a dental sensor for an anterior dental image, where the aimer ring bar has an S-curve to support an aimer ring, and an anterior sensor holder comprising two arms slotted to detachably engage the two pressure slots, it fails to teach or fairly suggest that the anterior sensor holder comprises a flexible sleeve for holding a digital dental radiography sensor as claimed.



***Response to Amendment***

12. Applicants' amendments filed 11 July 2005 with respect to the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn.

***Response to Arguments***

13. Applicants' arguments filed 15 March 2005 have been fully considered but they are not persuasive.

With regard to claims 1 and 5, the applicants argue that Kanbar *et al.* failed to disclose a horizontal bitewing and a vertical bitewing. The examiner respectfully disagrees. Kanbar *et al.* clearly disclosed a horizontally oriented bitewing (column 4, lines 62 - 66) and a vertically oriented bitewing (column 4, line 67 - column 5, line 5). The applicants argue that the horizontal and vertical bitewings disclosed by the present application stand alone and operate without attachment to a guide bar. This argument is not persuasive. As noted in MPEP §2111, during patent examination, words of the claims are generally given their ordinary and customary meaning. It is proper to use the specification to interpret what the applicant meant by a word or a phrase recited in the claim. However, it is not proper to read limitations appearing in the specification into the claim when these limitations are not recited in the claim.

With regard to claim 13, the applicants argue that Tanaka failed to disclose a tab for engaging a posterior imaging bar. The examiner respectfully disagrees. The applicants' argument that structural element 24c does not correspond to a tab for engaging a posterior imaging bar is not persuasive because it is directed to functional language instead of structure.

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As noted in MPEP §2114, while features of an apparatus may be recited either structurally or functionally, an apparatus must be distinguished from the prior art in terms of structure rather than function. The only structure claimed here is a tab, which is clearly disclosed by Tanaka. It is unclear how the recitation of engaging a posterior imaging bar restricts the structure of the tab because the structure of the posterior imaging bar is not claimed. Furthermore, the applicants argue that Tanaka failed to disclose a sleeve base with a tab or a sleeve back with a gripping tab. This argument is not persuasive because all the elements are clearly indicated in the rejection. As noted in MPEP §2111, during patent examination, words of the claims are generally given their ordinary and customary meaning. It is proper to use the specification to interpret what the applicant meant by a word or a phrase recited in the claim. However, it is not proper to read limitations appearing in the specification into the claim when these limitations are not recited in the claim.

With regard to claims 14 and 15, the applicants argue that McAuslan failed to disclose a flexible sleeve. The examiner respectfully disagrees. As defined by Merriam-Webster, a flexible material is a material that yields to influence, or a material that is ready to adapt to new, different, or changing requirements. In this sense, all materials are flexible.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- (1) Maldonado *et al.* (U. S. Patent No. 4,554,676) disclosed a dental radiography system comprising an aim ring bar having an S-curve and an imaging platform (14) that has two pressure slots (16) for holding a sensor holder.
- (2) Narvestad (U. S. Patent No. 2,831,978) disclosed a dental radiography holder comprising a flexible sleeve and two arms extending from the sleeve.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho  
Primary Examiner  
Art Unit 2882

07 October 2005